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**BZA-1915  
MEDALIST HOLDINGS, LLC  
Variance**

**STAFF REPORT  
August 21, 2014**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, with consent of the owner Purdue Research Foundation, and represented by attorney Daniel Teder, is requesting a setback variance from the required 60' to 40' along Yeager Road. The property, in the proposed 3-lot commercial Yeager Terrace Subdivision, is located at the southwest corner of Yeager Road and Kent Avenue, West Lafayette, Wabash 12 (NE) 23-5.

**AREA ZONING PATTERNS:**

This property was rezoned from PDNR (Hentschel Complex PD) to NB this August by the West Lafayette Common Council (Z-2578). Land to the north, west and south is zoned OR, Office Research. Directly east across Yeager is R3W zoning; R1 is located to the northeast and GB can be found to the southeast. This is the first setback variance filed from the Yeager Road right-of-way in this area.

**AREA LAND USE PATTERNS:**

The site in question is currently unimproved and has been since around 2011 when three office buildings were razed. Uses to the north and northwest include the television station (WLFI) and State Farm Insurance. East across Salisbury are single-family homes, an apartment complex and an Ace Hardware store. A commercial building is located south of the site and contains a realty company and vacant tenet space.

**TRAFFIC AND TRANSPORTATION:**

The site is located at the southwest corner of Yeager Road (an Urban Primary arterial) and Kent Avenue (an Urban Local). A short private street, Potter Drive, was created with the planned development and lines the southern portion of this land. There is an access easement along the shared lot line for Lots 1 and 2 from Yeager Road; Lot 3 gains access from Kent Avenue to the north or Potter Drive to the south.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

Public utilities serve the site.

'Type B' bufferyards are required where NB zoning abuts OR zoning.

**STAFF COMMENTS:**

In 2001 this property was rezoned to PDNR to accommodate an existing situation. The site contained 3 primary use buildings on the same lot which had been constructed with

a 40' setback from Yeager Road - violations of both the subdivision and zoning ordinances. The PD process alleviated these issues. Around 2011, these buildings were razed and recently a rezone to Neighborhood Business was approved for this site.

On August 6<sup>th</sup>, the Executive Committee of the Area Plan Commission granted primary approval for a subdivision of this land called Yeager Terrace (S-4471), a 3-lot minor subdivision. When reviewing this subdivision, it was noted that Yeager Road, which the adopted *Thoroughfare Plan* classifies as an urban primary arterial, requires 40' half-width of right-of-way, but only 30' existed on Yeager. Ten additional feet of right-of-way will be dedicated with the final plat. This effectively placed the 60' required building setback 10' further west on the property rendering almost half of the two proposed lots as unbuildable. Petitioner decided that seeking a variance for a 40' building setback would allow the lots to be more easily developed and mirror the setback of the buildings that once stood there.

Unfortunately, the definition of hardship in the UZO states that self-imposed situations cannot be considered a hardship. "Self-imposed situations include...any result of land division requiring variance from the development standards of this ordinance in order to render that site buildable." This property was just recently subdivided into three lots; the lots could have been reconfigured to make Lots 1 and 2 more attractive as building sites without requiring a variance to do it.

Regarding the ballot items:

1. The Area Plan Commission at its meeting on August 20, 2014 determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. A forty foot setback from Yeager Road will still allow for adequate sight lines for the motoring public and pose no safety hazard.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. For many years, buildings were located on this property with a 40' building setback which did not apparently negatively impact the adjacent properties; however
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. There is nothing unusual about the property regarding its shape, size and topography that would prevent the setback requirements from being met.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. This land is still large enough to accommodate a large commercial building and associated

parking; this request is necessitated by the owners desire to create 3 lots in this configuration

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The definition of “hardship” states that self-imposed situations cannot be considered a hardship because of “any result of land division requiring variance from the development standards of this ordinance in order to render that site buildable”. It is petitioner’s desire to plat the lots in this configuration that is causing the difficulty. One solution would be to reconfigure the subdivision layout to meet the ordinance required setbacks.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship because no ordinance-defined hardship exists.

**STAFF RECOMMENDATION:**

Denial